THE HONOURABLE SRI BILAL NAZKI, THE ACTING CHIEF JUSTICE

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AND

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THE HONOURABLE SRI JUSTICE R. SUBHASH REDDY

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WRIT APPEAL No. 2010 OF 2004

JUDGMENT (Per Hon'ble Sri Bilal Nazki, ACJ)

Heard the learned Counsel for the parties.

Appellants made an application under Section 5-A of the A.P. Rights in Land and Pattadar Pass Books Act, 1971 (for short 'the Act'). They Succeeded before the Mandal Revenue Officer. Thereafter, the 4th respondent preferred appeal before the Revenue Divisional Officer-Appellate Authority, and, the appellants succeeded there also. The unsuccessful respondent, i.e. Respondent No.4, filed revision before the Joint Collector. The Joint Collector, Ranga Reddy District, the Respondent No.1 herein, reversed the orders passed by the primary and appellate authorities. Aggrieved by the same, the appellants filed a Writ Petition before this Court being Writ Petition No. 9983 of 2004. The said Writ Petition has been dismissed by the learned single judge. Hence this Writ Appeal.

Although, the learned Single Judge dismissed the Writ Petition, amongst other grounds, on the ground that the partition deed was not transferred, we are not going into that question at all. The case of the writ petitioners was that they secured possession through partition deed executed between the parties in the year 1963. Therefore, they sought certificate in terms of Section 5-A of the Act. Section 5-A of the Act is reproduced below:

"5-A. Regularisation of Certain alienations or other transfers of lands:

(1) Notwithstanding anything contained in this Act, the Transfer of Property Act, 1882, the Registration Act, 1908, or any other law for the time being in force (where a person is an occupant) by virtue of an alienation or transfer made or effected otherwise, than by registered document, the alienee or the transferee may, within such period as may be prescribed, apply to the Mandal Revenue Officer for a certificate declaring that such alienation or transfer is valid.

(2) On receipt of such application, the Mandal Revenue Officer shall after making such enquiry as may be prescribed require the alienee or the transferee to deposit in the office of the Mandal Revenue Officer an amount equal to the registration fees and the stamp duty that would have been payable had the alienation or transfer been effected by a registered document in accordance with the provisions of the Registration Act 1908, as fixed by the Registering Officer on a reference made to him by the Mandal Revenue Officer the basis of the value of the property arrived at in such manner as may be prescribed:

provided that the Mandal Revenue Officer shall not require the alienee or the transferee to deposit the amount under this sub-section unless he is satisfied that the alienation or transfer is not in contravention of the provisions of the Andhra Pradesh Land Reforms (Ceiling on Agricultural Holdings)Act, 1973, the Urban Land (Ceiling and Regulation) Act, 1976, The Andhra Pradesh Scheduled Areas Land Transfer Regulation, 1959, and the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act, 1977.

(3) Nothing contained in sub-section (1) and Sub-section (2) shall be deemed to validate any alienation where such alienation is in contravention of the provisions of the Andhra Pradesh land Reforms(Ceiling on Agricultural Holdings)Act, 1973, the Urban land (Ceiling and Regulation) Act, 1976, The Andhra Pradesh Scheduled Areas Land Transfer Regulation, 1959, and the Andhra Pradesh Assigned Lands (prohibition of Transfers) Act, 1977.

(4) The Mandal Revenue Officer on deposit of an amount specified in sub-section (2) shall issue a certificate to the alienee or the transferee declaring that the alienation or transfer is valid from the date of issue of certificate and such certificate shall, notwithstanding anything in the Registration Act, 1908 be evidence of such alienation or transfer as against the alienor or trasnsferor or any person claiming interest under him.

(5) The recording authority, shall on the production of the certificate issued under sub-section(2) make any entry in the pass book to the effect that the person whose name has been recorded as an occupant is the owner of the property."

The Mandal Revenue Officer is obliged to issue Certificate, declaring that the alienation or transfer of the property, which was in possession of the party, was

valid. This certificate can only be issued by the Mandal Revenue Officer after conducting enquiry in terms of Sub Section (2) of the Section 5-A of the Act.

We have seen the partition deed. The partition deed does not at all identify the landed property, for which, certificate under Section 5-A of the Act is sought. Appellants claim share of Anjaiah and Anjaiah's share in the partition deed is: "*lands came to Anjaiah's share: Details: Chinnaiah related Dry, Madikattu-wet, Half in the Yenkanna related (upside and Central (Nadimi) Gunta (Krindi Madi)"*. Nobody on the earth can make out from this partition deed as to what was given to Anjaiah. Therefore, the basic ingredients, which had to be satisfied under Section 5-A, were not at all satisfied, because, a certificate had to be given by the Mandal Revenue Officer that alienation or transfer of the property was valid. If the property could not be identified at all, how could such a certificate could be given. Among other reasons, this was one of the reasons, on which the Joint Collector allowed the revision. We find this to be a valid ground.

There is no merit in this appeal. Therefore, the order of the Joint Collector is upheld and the order of the learned Single Judge is confirmed.

The Writ Appeal is dismissed. No costs.

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(BILAL NAZKI, ACJ)

14TH September, 2005

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(R. SUBHASH REDDY,J.)

PNB/MSNR.